

UNITED STATES DISTRICT COURT
FOR THE
DISTRICT OF VERMONT

U.S. DISTRICT COURT
DISTRICT OF VERMONT
FILED

2022 JUN 21 PM 12: 51

THE ESTATE OF GREGORY DAVIS,)
Melissa Davis, Administrator and)
MELISSA DAVIS, individually,)
Plaintiffs,)
v.)
SERHAT DANIEL GUMRUKCU,)
Defendant.)

CLERK
BY EM
DEPUTY CLERK

Civil Case No. 5:22-cv-123

**PLAINTIFFS' MOTION TO ATTACH THE PERSONAL PROPERTY OF
SERHAT DANIEL GUMRUKCU**

I. Introduction

The plaintiffs move the Court to order that:

- Serhat Daniel Gumrukcu deliver \$25 million dollars in the stock of Enochian Biosciences, Inc. (Enochian) to the Clerk of the Court within 10 days of the order of the Court;¹ and
- the Clerk retain that stock until further order of the Court.

Mr. Gumrukcu has been indicted by a grand jury in the District of Vermont for hiring another to travel in interstate commerce, and for using, and causing another to use, interstate commerce, with the intent that the murder of Gregory Davis be committed in violation of 13 V.S.A. § 2301 (first degree murder), and thereby causing the death of Mr. Davis, in violation

¹ The stock should be valued on the date of delivery to the clerk. As of the close of the market on June 17, 2022, Enochian was trading at \$3.4600 per share. According to "Market Watch," the 52 week high was \$13.7799 and the 52 week low was \$2.6700. According to "Market Watch" 52.95 million shares are outstanding. *See Exhibit 1. Also See Exhibit 2*, Enochian's most recent Form 10-Q.

of 18 U. S. C. § 1958. *Indictment, United States of America v. Gumrukcu and Eratay*, 5:22-cv-58-1-2. The overwhelming evidence against Mr. Gumrukcu is set forth in affidavits by the law enforcement officers United States in the criminal case against Mr. Gumrukcu in this Court.

II. Every Remedy Available to the Plaintiffs in a Vermont Court, Including the Attachment of the Defendant's Personal Property, is Available to the Plaintiffs in This Court

F. R. Civ. P. 64 provides that a district court may issue a writ of attachment of a party's real and/or personal property when attachment is authorized by state law.²

12 V. S. A. § 3295 provides for the attachment of personal property and states that it shall take place "as provided by rule adopted by the [Vermont] supreme court."

V. R. Civ. P. 4.1 provides that a court may issue a writ of attachment to protect the interests of a party who is likely to obtain a judgment for money damages against another party.

II. The Plaintiffs Are Highly Likely to Obtain a Very Substantial Judgment Against the Defendant

The *Complaint* and the *Indictment* against Mr. Gumrukcu issued by the Grand Jury show that in order prevent Mr. Davis from reporting fraudulent activity by Mr. Gumrukcu to federal law enforcement officials, Mr. Gumrukcu orchestrated a complex and protracted conspiracy to murder Mr. Davis. Moreover, the filings by the government in United States of America v. Serhat Daniel Gumrukcu make clear that the evidence against the defendant is

² "At the commencement of and throughout an action, every remedy is available that, under the law of the state where the court is located, provides for seizing . . . property to secure satisfaction of the potential judgment. . . . The remedies available under this rule include . . . attachment."

very strong and various persons involved in the conspiracy to kill Mr. Davis will testify against Mr. Gumrukcu³.

In addition, it is highly likely that the jury will award the plaintiffs substantial damages on account of:

- the fear and horror Mr. Davis experienced in the time between his kidnaping and execution by Mr. Banks;
- the Davis family's loss of Mr. Davis' economic and emotional support; and
- the shock, distress and grief felt by Mrs. Davis because of the kidnaping and murder of her husband.

Moreover, this is one of the rare cases that meets the very high standards for the recovery of punitive damages in Vermont.

A verdict in excess of \$25 million would surprise no one familiar with litigation in Vermont although, it should be noted, it would difficult, if not impossible, to find a case comparable to the present case.

III. There is No Bond, Insurance or Other Security Available to Satisfy Such Judgment

As previously mentioned, Mr. Gumrukcu orchestrated a complex and protracted plan to murder Mr. Davis. It is highly likely, if not certain, that even if the defendant were the

³ For example, documents filed by the United States in the criminal case report that Aron Lee Ethridge has admitted to federal law enforcement officers that he hired Jerry Banks to murder Mr. Davis because Berk Eratay, an employee or business associate of Mr. Gumrukcu, paid Mr. Ethridge more than \$110,000 for his gruesome services.

beneficiary of a liability insurance policy, the claims set forth in the *Complaint* would be excluded from coverage by a typical intentional acts exclusion.

IV. The Property the Plaintiffs Seek to Attach

Enochian is a business organization existing under the laws of Delaware with its principal place of business in California.⁴ Stock in Enochian⁵ is publicly traded on The Nasdaq Stock Market. According to documents filed by Enochian with the Securities and Exchange Commission (SEC) in May 2022, “Enochian ... together with its subsidiaries ... engages in the research and development of pharmaceutical and biological products for the human treatment of HIV, HBV, influenza and coronavirus infections, and cancer with the intent to manufacture and commercialize said products.”⁶

Mr. Gumrukcu is sometimes described as Enochian’s founder. However, in a “Shareholder Letter” (Form 8-K) following Mr. Gumrukcu’s indictment and arrest, Enochian described Mr. Gumrukcu as “the inventor” of the intellectual property used by the company in the development of pharmaceutical and biological products. The company went on to say that “the inventor has never held a formal role with the company ... [and] the inventor’s scientific advisory role with Enochian was terminated as soon as the company learned about these allegations last week.”⁷

⁴ A copy of the company’s most recent Form 10-Q, filed with the Securities and Exchange Commission on May 13, 2022, is attached as *Exhibit 2*.

⁵ The company’s trading symbol is ENOB.

⁶ Note 1, *Exhibit 2*.

⁷ *Exhibit 3*.

Mr. Gumrukcu is said to own stock in Enochian worth as much as one hundred million dollars, although it seems probable that Mr. Gumrukcu's indictment and incarceration will have an adverse effect of the market value of Enochian stock.

V. The Proposed Attachment Will Impose No Real Burden on the Defendant

Assuming Mr. Gumrukcu remains incarcerated during the pendency of this litigation, something which seems highly likely since there is strong evidence that he orchestrated a conspiracy to murder a man in order to prevent him from providing evidence to federal officials, the attachment of the defendant's stock in Enochian, specifically, an order that Mr. Gumrukcu deliver the stock certificates to the Clerk of the Court, and the Clerk retain those certificates while this litigation remains pending, will impose no real burden on the defendant.

Dated: June 20, 2022

THE ESTATE OF GREGORY DAVIS,
Melissa Davis, Administrator, and
MELISSA DAVIS Individually

By: 

Michael F. Hanley
Paul J. Perkins
Plante & Hanley, P.C.
Post Office Box 708
White River Junction, VT 05001
802-295-3151
mfhanley@plantehanley.com
pjperkins@plantehanley.com

Andrew B. Delaney
Stefan Ricci
Martin Delaney & Ricci Law Group
100 North Main Street
Barre, VT 05641
802-479-0568
andrew@mdrvt.com
stefan@mdrvt.com

Plante &
Hanley, P.C.